

OPEN MEETING ITEM



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BRIAN C. McNEIL
Executive Director

ARIZONA CORPORATION COMMISSION 2008 DEC -2 P 2:00

DATE: DECEMBER 2, 2008

DOCKET NO: RR-03639A-08-0311

TO ALL PARTIES:

AT CORP COMMISSION
DOCKET CONTROL

Enclosed please find the recommendation of Administrative Law Judge Yvette B. Kinsey. The recommendation has been filed in the form of an Opinion and Order on:

UNION PACIFIC RAILROAD COMPANY (UPGRADE CROSSING)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

DECEMBER 11, 2008

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Open Meeting to be held on:

DECEMBER 16, 2008 and DECEMBER 17, 2008

For more information, you may contact Docket Control at (602) 542-3477 or the Hearing Division at (602)542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

Arizona Corporation Commission
DOCKETED

DEC -2 2008



BRIAN C. McNEIL
EXECUTIVE DIRECTOR

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 **COMMISSIONERS**

3 MIKE GLEASON - Chairman
4 WILLIAM A. MUNDELL
5 JEFF HATCH-MILLER
6 KRISTIN K. MAYES
7 GARY PIERCE

8 IN THE MATTER OF THE APPLICATION OF
9 THE MARICOPA COUNTY DEPARTMENT OF
10 TRANSPORTATION TO UPGRADE A
11 CROSSING OF THE UNION PACIFIC
12 RAILROAD AT SARIVAL AVENUE IN
13 MARICOPA COUNTY, ARIZONA AT
14 AAR/DOT NO. 741-782-L.

DOCKET NO. RR-03639A-08-0311

DECISION NO. _____

OPINION AND ORDER

11 DATE OF HEARING: August 28, 2008

12 PLACE OF HEARING: Phoenix, Arizona

13 ADMINISTRATIVE LAW JUDGE: Marc E. Stern¹

14 APPEARANCES: Mr. Adrian M. Gough, on behalf of the Maricopa County's
15 Attorney's Office; and

16 Ms. Ayesha K. Vohra, Staff Attorney, Legal Division, on
17 behalf of the Safety Division of the Arizona Corporation
18 Commission.

17 **BY THE COMMISSION:**

18 On June 19, 2008, the Maricopa County Department of Transportation ("MCDOT") filed with
19 the Arizona Corporation Commission ("Commission") an application for approval for the Union
20 Pacific Railroad ("Railroad") to upgrade an existing crossing at the Railroad's tracks at Sarival
21 Avenue, in the City of Goodyear, Maricopa County, Arizona, at AAR/DOT No. 741-782-L.

22 On June 30, 2008, a Procedural Order was issued scheduling a hearing in this matter for
23 August 28, 2008, and establishing other procedural requirements and deadlines.²

24 On August 11, 2008, the Commission's Safety Division Staff ("Staff") filed its Staff Report

25 _____
26 ¹ Administrative Law Judge Yvette B. Kinsey drafted the Recommended Opinion and Order on behalf of Administrative
27 Law Judge Marc E. Stern.

28 ² A Certification of Notice was not docketed prior to the hearing as directed by the Procedural Order, but the MCDOT
submitted the Certification as an exhibit during the hearing, showing notice had been published in the *Arizona Business
Gazette*, a weekly newspaper of general circulation, on July 24, 2008. The exhibit also showed that notice of the
application and hearing date had been provided to the Railroad, various governmental agencies and interested parties.

1 recommending approval of the application.

2 On August 28, 2008, a full public hearing was convened before a duly authorized
3 Administrative Law Judge of the Commission at its offices in Phoenix, Arizona. The MCDOT, and
4 Staff appeared through counsel. Staff and the MCDOT presented documentary evidence at the
5 hearing. At the conclusion of the hearing, the matter was taken under advisement pending
6 submission of a Recommended Opinion and Order to the Commission.

7 * * * * *

8 Having considered the entire record herein and being fully advised in the premises, the
9 Commission finds, concludes, and orders that:

10 **FINDINGS OF FACT**

11 1. On June 19, 2008, the MCDOT filed with the Commission an application for approval
12 to upgrade the Railroad's crossing located at Sarval Avenue, in the City of Goodyear, by widening
13 the roadway to four lanes, adding a dedicated left hand turn lane at Maricopa County Highway 85
14 ("MC 85") for southbound traffic on Sarval Avenue, and installing a 10.5 foot raised median across
15 the Railroad's right of way.

16 2. According to the Staff Report, the Sarval Avenue crossing upgrade is a part of the
17 MC 85 Estrella Parkway to Cotton Lane Project ("MC 85 Project"), which also includes widening
18 MC 85 to a six lane roadway, and adding traffic signalization at the MC 85 and Sarval intersection.

19 3. The crossing is located at Sarval Avenue just north of MC 85, and runs on a north-
20 south trajectory with the rail line traversing Sarval Avenue on an east-west angle.

21 4. Notice of the application and hearing were given in accordance with the Procedural
22 Order issued on June 30, 2008.

23 5. The MCDOT is the controlling road authority for Sarval Avenue.

24 6. The application proposes adding 12-inch LED flashing lights with automatic gates in
25 the median, and outside the roadway near the sidewalk, as well as a new concrete crossing surface.
26 The Railroad also plans to add cantilevers with 12-inch LED flashing lights for traffic in both
27 directions, and to replace the existing incandescent flashing lights, gate mechanisms and timber
28

1 crossing surface with constant warning circuitry³ connected to a traffic preemption circuit, which
2 allows the intersection to clear prior to the arrival of the train.

3 7. In 1980, flashing lights and automatic gates were installed at the Sarival Avenue
4 crossing pursuant to Commission Decision No. 50800.

5 8. Based on traffic data provided by MCDOT for Sarival Avenue in 2006, the average
6 daily traffic ("ADT") was 1656 vehicles per day ("vpd"). The Maricopa Association of Governments
7 ("MAG") predicts ADT will be 6,099 vpd by the year 2030. According to Staff's Report, the Level
8 of Service ("LOS") at the intersection of MC 85 and Sarival Avenue, based on the standards of the
9 American Association of State Highway and Transportation Officials ("AASHTO") is LOS A, or
10 least congested.⁴ Staff obtained information which showed that by the year 2026, the MC 85 and
11 Sarival Avenue intersection will be operating at a LOS B. Staff's analysis assumes that MC 85 will
12 be upgraded to a six-lane roadway.

13 9. The posted speed limit on Sarival Avenue is 45 mph.

14 10. Staff and the Federal Railroad Administration ("FRA") records indicate that there
15 have been no train/vehicle accidents at the Sarival Avenue crossing. There are two alternative routes
16 to the Sarival Avenue crossing: Cotton Lane one mile to the west; and Estrella Parkway one mile to
17 the east. Both alternate routes are at-grade crossings.

18 11. Mr. Raul Varela, Director of Engineering with the City of Goodyear, testified that in
19 2006 the City of Goodyear and Maricopa County entered into an intergovernmental agreement to
20 share the costs for the MC 85 Project. (Tr. at 12) According to the witness, the City of Goodyear
21 will pay 40 percent, or approximately \$5.6 million of the total cost of \$13 million for the MC 85
22 Project crossing improvements. (Tr. at 22) The crossing improvements at Sarival Avenue are a part of
23

24 ³ Constant warning time circuitry sends a signal to the at-grade crossing to activate its functioning at the instant it detects
25 a train's distance and measures the speed of the train to adjust the length of time that the crossing gates have to be closed,
26 so that the crossing gates are closed only for the amount of time necessary for the train to move through safely, thereby
27 avoiding motorist frustration and possible noncompliance caused by unnecessarily lengthy crossing gate closure.

28 ⁴ According to the Staff Report, the AASHTO Geometric Design of Highways and Roads, 2004, uses LOS to characterize
the operating conditions on a roadway in terms of traffic performance measures related to speed and travel time, freedom
to maneuver, traffic interruptions, and comfort and convenience. LOS ranges from LOS A, least congested, to LOS F,
most congested.

1 the overall MC 85 Project and estimated cost total \$575,057 for the crossing improvements. (Tr. at
2 22)

3 **Train Volume and Crossing Usage**

4 12. According to the Staff Report, data from the Railroad established that an average of 2-
5 3 trains per day travel through the crossing presently at a speed of 25 MPH. The Railroad states that
6 train movements through the crossing include through train movements, as well as switching
7 movements.

8 13. According to information obtained from MCDOT, there are ten schools located near
9 the Sarival Avenue crossing. The ten schools include two high schools and eight elementary schools.
10 Mr. Varela testified that one elementary school bus crosses the Sarival Avenue crossing two times
11 per day. (Tr. at 34)

12 14. The nearest hospital to the Sarival Avenue crossing is West Valley Hospital, located
13 approximately 7.5 miles from the crossing. There is no evidence that the proposed improvements and
14 upgrades for the crossing at issue will adversely impact motorists' ability to reach the hospital.

15 15. Staff contacted the Transportation Department for the Avondale School District
16 regarding school buses traveling over the crossing and the Transportation Department did not have
17 any concerns regarding blocked crossings or safety issues at the crossing. (Tr. at 60) Staff also
18 contacted the emergency responders in the area and they expressed no concern with delays due to the
19 proposed crossing improvements or upgrades. (Tr. at 61)

20 **Grade Separation/Crossing Elimination**

21 16. Staff analyzed whether grade separation is warranted at the Sarival Avenue crossing
22 using the Federal Highway Administration ("FHWA") *Railroad-Highway Grade Crossing Handbook*
23 ("FHWA Handbook").⁵ The FHWA Handbook indicates that grade separation or crossing
24 elimination should be considered when one or more of nine criteria are met. Staff created a chart,
25 attached hereto and incorporated herein as Exhibit A, showing the results of Staff's analysis of the
26 criteria for the Sarival Avenue crossing.

27
28 ⁵ Staff used the revised 2nd edition, August 2007.

1 17. Exhibit A shows that the Sarival Avenue crossing does not currently meet any of the
2 nine criteria in the FHWA Handbook, or that the crossing will meet any of the nine criteria by the
3 year 2030 based on projected ADT for that time period.

4 18. The City of Goodyear's witness testified that it is in the public interest to keep the
5 Sarival Avenue crossing at grade level because there is very low traffic in the area, the crossing is
6 mainly used by trucks to access a nearby industrial area, and based on plans to build a new highway
7 (Highway 801), the city does not believe there will be an increase in traffic at the crossing. (Tr. at
8 13) The witness also testified that the City is in agreement with Staff's analysis of the crossing using
9 the nine FHWA criteria. (Tr. at 14)

10 19. Mr. Douglas LaMont, a consultant for the County, testified that adding a grade
11 separation at Sarival Avenue could have a negative impact on traffic in the area. (Tr. at 49) Mr.
12 LaMont testified that if the crossing is grade separated it would cut off access to businesses running
13 north along Sarival, the farmland to the south, and any potential development that would occur on the
14 south side of the crossing. (Tr. at 33) In addition, the witness stated that the crossing does not meet
15 the FHWA criteria for grade separation. (*Id.*) He further testified that in order to do a grade
16 separation at Sarival Avenue the road would have to be raised 30 feet to get the appropriate clearance
17 from the bottom of the bridge to the top of the train. (Tr. at 49) Additionally, because MC 85 is in
18 close proximity to Sarival, MC 85 would also have to be raised high enough to go over the railroad
19 crossing. (*Id.*)

20 20. Staff also conducted an analysis of vehicle delays⁶ at the Sarival Avenue crossing.
21 The criteria in the FHWA Handbook states that a grade separation should be considered if vehicle
22 delays exceed 40 vehicle hours per day. Based on information provided by the MCDOT, vehicles
23 approaching the crossing should have a delay time of 282 seconds (0.42 vehicle hours per train) for a
24 train passing through the crossing and a delay of 635 seconds (2.15 vehicle hours per train) for a
25 train stopped at the crossing. The current vehicle delays and projected vehicle delays do not exceed
26

27 _____
28 ⁶ According to Staff's Report, the delay time is measured from the point that the warning devices are activated at the crossing to the time after the train has cleared the crossing and the warning devices are reset.

1 40 vehicle hours and therefore do not meet the criteria established in the FHWA Handbook for
2 consideration of a grade separation.

3 21. Staff concluded that based on the amount of growth in the area, and the projected
4 ADT, that closure of the Sarival Avenue crossing is not recommended at this time.

5 **Staff's Recommendations**

6 22. Staff recommends that the Application be approved, and based on its review of all
7 applicable data, Staff believes that the proposed crossing upgrades are reasonable, in the public
8 interest and consistent with other similar at-grade crossings in the State.

9 23. Staff's recommendations are reasonable and appropriate and should be adopted.

10 **CONCLUSIONS OF LAW**

11 1. The Commission has jurisdiction over the parties and over the subject matter of the
12 Application pursuant to Article XV of the Arizona Constitution and A.R.S. §§ 40-336, 40-337 and
13 40-337.01.

14 2. Notice of the Application was provided in accordance with the law.

15 3. Alteration of the crossing as proposed in the Application, and as recommended by
16 Staff, is necessary for the public's convenience and safety.

17 4. Pursuant to A.R.S. §§ 40-336 and 40-337, the Application should be approved as
18 recommended by Staff.

19 5. After alteration of the crossing, the Railroad should maintain the crossings in
20 accordance with A.A.C. R14-5-104.

21 **ORDER**

22 IT IS THEREFORE ORDERED that the Maricopa County Department of Transportation's
23 Application, is hereby approved.

24 IT IS FURTHER ORDERED that the Union Pacific Railroad Company shall notify the
25 Commission, in writing, within ten days of both the commencement and the completion of the
26 crossing alterations, pursuant to A.A.C. R14-5-104.

27 IT IS FURTHER ORDERED that the Union Pacific Railroad Company shall maintain the
28 crossing at Sarival Avenue, in the City of Goodyear, Maricopa County, Arizona in compliance with

A.A.C. R14-5-104.

IT IS FURTHER ORDERED that the Maricopa County Department of Transportation shall file, every five years from the effective date of this Decision, with the Commission's Docket Control, as a compliance item in this docket, an update on the average daily traffic count at the Sarival Avenue crossing described in the Application.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN

COMMISSIONER

COMMISSIONER

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this ____ day of _____, 2008.

BRIAN C. McNEIL
EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____

1 SERVICE LIST FOR: UNION PACIFIC RAILROAD

2 DOCKET NO.: RR-03639A-08-0311

3

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21

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23

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EXHIBIT A

		Sarival Ave.
The highway is a part of the designated Interstate Highway System	Crossing Currently meets the criteria	NO
	Crossing meets the criteria by 2030	NO
The highway is otherwise designed to have full controlled access	Crossing Currently meets the criteria	NO
	Crossing meets the criteria by 2030	NO
The posted highway speed equals or exceeds 70 mph	Crossing Currently meets the criteria	NO
	Crossing meets the criteria by 2030	NO
AADT exceeds 100,000 in urban areas or 50,000 in rural areas	Crossing Currently meets the criteria	NO
	Crossing meets the criteria by 2030	NO
Maximum authorized train speed exceeds 110 mph	Crossing Currently meets the criteria	NO
	Crossing meets the criteria by 2030	NO
An average of 150 or more trains per day or 300 million gross tons/year	Crossing Currently meets the criteria	NO
	Crossing meets the criteria by 2030	NO
Crossing exposure (trains/day x AADT) exceeds 1M in urban or 250k in rural; or passenger train crossing exposure exceeds 800k in urban or 200k in rural	Crossing Currently meets the criteria	NO
	Crossing meets the criteria by 2030	NO
Expected accident frequency for active devices with gates, as calculated by the US DOT Accident Prediction Formula including five-year accident history, exceeds 0.5	Crossing Currently meets the criteria ¹	NO
	Crossing meets the criteria by 2030	Unknown
Vehicle delay exceeds 40 vehicle hours per day	Crossing Currently meets the criteria	NO
	Crossing meets the criteria by 2030	NO

¹ The Accident Prediction Formula predicts the accident frequency for this crossing to be 0.008717.